

### **REMARKS**

Claims 2, 3 and 6-9 are presently pending. The subject matter of Claims 4 and 5 is incorporated into Claim 2 and Claims 4 and 5 are canceled. Claims 1 and 10-14 are canceled without prejudice. No new matter has been added herewith. The following addresses the substance of the Office Action.

#### **Objection**

Claims 3 and 4 were objected to for reciting "The composition". The Examiner indicated that the claims should recite "The cleaning composition". The Applicant has amended Claim 3 to recite "The cleaning composition" and Claim 4 is canceled.

#### **Indefiniteness**

Claims 1-7 and 10-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 4, 5 and 10-14 are canceled, thereby obviating the rejections with regard to these claims.

With regard to Claim 2, it was not clear if both the "a manganese" or the "a manganese compound" are bound to, associated with, etc the at least one protein type, or if only the "a manganese compound" is so bound/associated etc. The Applicant has amended Claim 4 to explicitly recite a cleaning composition comprising a manganese proteinate, wherein a manganese ion, atom or compound is bound to a protein, protein fragment or a peptide. The Examiner also noted that Claim 2 redundantly recited "surrounded by at least one protein fragment or peptide". The Applicant has deleted both instances of the phrase from Claim 2.

With regard to Claim 6, the Examiner found that there was insufficient antecedent basis for recitation of "the tabletted machine dishwashing cleaning composition". Claim 2 is amended to recite "wherein the cleaning composition is in the form of a tablet, a granulate or a powder". Accordingly, the Applicant has amended Claim 6 to recite "wherein the tablet form machine dishwashing composition," thereby obviating the rejection.

With regard to Claim 7, there was insufficient antecedent basis for recitation of "the granulated composition". Claim 2 is amended to recite "wherein the cleaning composition is in the form of a tablet, a granulate or a powder". Accordingly, the Applicant has amended Claim 7

to recite “wherein the granulate form machine dishwashing composition,” thereby obviating the rejection.

Claim 7 was also found to be unclear with regard to recitation of “have no direct contact” in the context of a granulated composition. Applicant has amended Claim 7 to recite “wherein the bleaching agent and the manganese proteinate are not cogenerated”. Support for the amendment is found in the Specification as filed, for example at page 28, line 32-page 29, line 4.

The Examiner also stated that there was no antecedent basis for the limitation “a bleaching agent” in Claim 7. Applicant has amended Claim 7 to depend from Claim 2, which is amended to use the open language “comprising”. Thus, the cleaning composition of Claim 2 is not necessarily limited to a manganese proteinate. Claim 7 is amended to recite that the granulated form machine dishwashing cleaning composition further comprises “a bleaching agent”.

### **Anticipation**

#### *Cannell et al.*

Claims 2-4 and 9 were rejected under 35 U.S.C. § 102(b) as being anticipated by Cannell et al. (U.S. Patent No. 5,681,554). Cannell et al. teaches hair treatment compositions comprising hydrolyzed protein and divalent cationic compounds.

The Applicant has amended the claims to recite “A machine dishwashing cleaning composition comprising manganese proteinate, wherein a manganese ion, atom or compound is bound to a protein, protein fragment or a peptide, and wherein the cleaning composition is in the form of a tablet, a granulate or a powder”. According to the Specification as filed at page 3, lines 17-21, a proteinate is any protein cluster, protein(s), protein fragment(s) or peptide(s) containing at least one metal ion or atom or a metal compound, preferably a manganese ion, atom or compound, whereby said ion, atom or compound is bound to said protein or protein fragment. Referring to page 4 of the Specification as filed, a “manganese proteinate” is, for example, where a manganese sulfate is bound to a protein.

In contrast to the presently claimed compositions, Cannell et al. does not describe the presence of a manganese proteinate. Instead, the reference only discloses the presence of a divalent cationic compound (e.g., manganese) and the presence of a hydrolyzed protein. However, the divalent cationic compound in the composition of Cannell et al. is not disclosed as being bound to the hydrolyzed protein. Referring to Cannell et al. at column 7, lines 3-6, the

**Application No.:** 10/591,375  
**Filing Date:** July 19, 2007

divalent cationic compound is effective in “bridging” the hydrolyzed protein to the hair. This indicates that the divalent cation is not bound to the hydrolyzed protein (e.g., by chelation) in the shampoo before use. Moreover, Cannell et al. relates to hair treatment compositions such as shampoos and does not disclose compositions in the form of a tablet, a granulate or a powder.

To be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed.Cir. 1986). “[A]nticipation requires that all of the elements and limitations of the claim are found within a single prior art reference.” *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Since Cannell et al. does not disclose a cleaning composition comprising a manganese proteinate, wherein the cleaning composition is in the form of a tablet, a granulate or a powder, the reference does not anticipate Claims 2 and 3.

With regard to Claim 9, the Applicant has amended Claim 9 to recite “wherein said cleaning composition is in the form of a tablet, a granulate or a powder”. Since Cannell et al. does not disclose a cleaning composition comprising a manganese proteinate, let alone wherein the cleaning composition is in the form of a tablet, a granulate or a powder, the reference does not anticipate Claim 9.

In view of the foregoing, the Applicant respectfully request that the rejection be withdrawn.

#### *Oakes*

Claims 2-6 were rejected under 35 U.S.C. § 102(b) as being anticipated by Oakes (U.S. Patent No. 4,539,132). The reference teaches bleaching and cleaning compositions comprising a proteolytic enzyme, manganese (II) metal and peroxide bleach, and the compositions may be in powdered or granular form.

However, while the reference teaches compositions that contain separate proteolytic enzyme and manganese (II) metal, the reference does not disclose a manganese proteinate. In particular, Oakes does not disclose any type of bonding between the manganese cation and the proteolytic enzymes. Even if a reaction between the manganese cations and the proteolytic enzymes were to take place, such a reaction would only occur in solution, but not in the solid state. Thus, Oakes does not teach a composition comprising a manganese proteinate, wherein a

manganese ion, atom or compound is bound to a protein, protein fragment or a peptide, as defined in amended Claim 2. As such, the rejection in light of Oakes should be withdrawn.

*Hardacker et al.*

Claims 1, 2, 4 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hardacker et al. (WO 03/104367). However, Hardacker et al. concerns a rinsing agent which is in the liquid state. This is evident from page 18, second paragraph where it is described that the rinsing agent contains water ("Wasser") or an aqueous solution ("wässrige Lösung") of additional active and/or auxiliary agents. It may also contain a water-miscible solvent (wassermischbares Lösungsmittel"). Moreover, referring to Claim 1, Element c) of Hardacker et al., the rinsing agent is defined as containing water or an aqueous solution. Thus, the rinsing agent of Hardacker et al. is not in the form of a tablet, a granulate or a powder. As noted above, to be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. Since Hardacker does not disclose a composition in the form of a tablet, a granulate or a powder, the Applicant respectfully requests that the rejection be withdrawn.

*Haeggberg et al.*

Claims 1, 2-7 and 10-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Haeggberg et al. (U.S. Patent No. 5,968,881). The reference teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds in the form of granules. The Examiner noted that the reference teaches granules of the composition where the catalyst, which can be a manganese compound, and the enzyme(s) are mixed together to form catalyst/enzyme particles and concluded that it is inherent that the manganese compound will be associated with or surrounded by the enzyme.

However, there is no evidence that the manganese is present in the form of a manganese proteinate or that it has reacted with an enzyme contained in the composition. Example 4 in column 30 even describes an embodiment wherein the catalyst and the enzyme are provided in different layers, wherein the enzyme is in the core and the catalyst in the coating. Thus, any chelation or a similar association between metal catalyst and enzyme is neither taught nor intended. Moreover, any possible reaction between a manganese cation and a protein would not be expected take place in the solid state.

**Application No.:** 10/591,375  
**Filing Date:** July 19, 2007

Since Haeggberg et al. does not teach each and every element of the claimed invention, the Applicant respectfully requests that the rejection be withdrawn.

### **Obviousness**

#### *Oakes*

Claims 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Oakes (*supra*). The rejection was made on the basis that Oakes teaches the bleaching and cleaning compositions as set forth in former Claim 5. However, as discussed above, Oakes does not teach each and every element of the claimed invention in Claim 2. Thus, Claim 7, which depends from Claim 2, is neither anticipated nor obvious in light of Oakes.

Moreover, referring to the Specification as filed at page 2, lines 28-31, it was surprisingly found that the presently claimed dishwashing cleaning compositions containing a manganese proteinate exhibit excellent silver corrosion protection properties. In contrast, Oakes does not even address the problem of silver corrosion. Thus, the unexpected result of exhibiting excellent silver corrosion protection is evidence of nonobviousness.

#### *Haeggberg et al. in view of Hardacker et al.*

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Haeggberg et al. (*supra*) in view of Hardacker et al. (*supra*). The rejection was made on the basis that Haeggberg et al. teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds in the form of granules. However, as discussed above, Haeggberg et al. does not teach each and every element of the claimed invention in Claim 2. Since the composition of Claim 2 is neither anticipated nor obvious in light of the cited references, Claim 8, which is amended to depend from Claim 2, is also not obvious in light of Haeggberg in combination with Hardacker et al.

In view of the foregoing, the Applicant respectfully request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

#### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this

**Application No.:** 10/591,375  
**Filing Date:** July 19, 2007

application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

### **CONCLUSION**

In view of Applicants' amendments to the Claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: February 1, 2010

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